United Nations S/2005/345

Security Council

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## Draft resolution

*The Security Council*,

*Recalling* its relevant resolutions on Burundi and in particular resolutions 1545 of 21 May 2004, 1565 of 1 October 2004, 1577 of 1 December 2004 and 1596 of 18 April 2005, as well as the statements of its President, in particular those of 15 August 2004 (S/PRST/2004/30), of 14 March 2005 (S/PRST/2005/13) and of 23 May 2005 (S/PRST/2005/19),

*Reaffirming* its strong commitment to the sovereignty, independence, territorial integrity and unity of Burundi, and *recalling* the importance of the principles of good-neighbourliness and non-interference, and of regional cooperation,

*Reaffirming also* its full support for the process of the Arusha Peace and Reconciliation Agreement for Burundi, signed at Arusha on 28 August 2000 (hereafter "the Arusha Agreement"), *calling on* all the Burundian parties to fully honour their commitments, and *assuring* them of its determination to support Burundi's efforts to bring the transition to an end successfully through the holding of free and fair elections,

*Welcoming* the positive achievements that have been made so far by the Burundian parties, including since the deployment of the United Nations Operation in Burundi (ONUB) on 1 June 2004,

*Welcoming* in particular the approval by the Burundian people of the post-transitional Constitution in the referendum of 28 February 2005,

*Taking note with satisfaction* of the declaration signed on 15 May 2005 in Dar es Salaam by the President of Burundi, Mr. Domitien Ndayizeye, and by the leader of the rebel group of Palipehutu-FNL, Mr. Agathon Rwasa, and *taking note in particular* of the commitment by both parties to cease hostilities immediately, agree within a month on a permanent ceasefire, and negotiate without disturbing the electoral process,

*Urging* the international community to take advantage of these positive political developments to increase its assistance for social and economic development in Burundi,

*Welcoming* the imminent holding of elections as provided for by the Arusha Agreement, *taking note with satisfaction* of the electoral timetable confirmed at the last meeting of Member States of the Regional Initiative for Peace in Burundi on 22 April 2005 in Entebbe, *calling on* the Transitional authorities strictly to adhere to

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this timetable for the holding of each poll, and *urging* all Burundian parties and candidates to ensure respect for the electoral code of conduct, refrain from any actions that may disrupt the process and accept the result of the elections,

*Encouraging* the Transitional Government to continue, with the cooperation of ONUB, to enhance women's participation in the political process,

*Taking note* of the progress achieved in the reform of the security sector, as well as in the disarmament and demobilization of former combatants, and *stressing the need* in this regard to implement without delay a national reintegration strategy in order to further consolidate peace and stability,

*Paying tribute* to the efforts of the Member States of the Regional Initiative for Burundi, especially Uganda and the United Republic of Tanzania, and the Facilitation of South Africa, to support the peace process in Burundi, and *encouraging* them to continue to assist the efforts of the Burundian parties,

*Encouraging* also the international donor community to respond to requests from the Government of Burundi to strengthen its national judicial institutions and rule of law capacity,

*Condemning* all acts of violence, any threat of the use of force, as well as violations of human rights and international humanitarian law, and *stressing the need* for the Burundian authorities to ensure the safety of civilian populations, in particular with regard to women, children and other vulnerable persons,

*Reiterating its strong condemnation* of the Gatumba massacre of 13 August 2004, and its commitment that perpetrators of such crimes, as well as all persons responsible for violations of human rights and international humanitarian law, be brought to justice,

*Considering* that bringing an end to the climate of impunity in Burundi, as well as in the Great Lakes of Africa as a whole, is essential for building lasting peace in the region,

*Taking note with satisfaction* of the report of the Secretary-General dated 19 May 2005 (S/2005/328),

*Noting* that factors of instability remain in Burundi, and *determining* that the situation in this country continues to constitute a threat to international peace and security in the region,

*Acting* under Chapter VII of the Charter of the United Nations,

1. *Decides* to extend the mandate of ONUB until 1 December 2005;

2. *Calls upon* all Burundian parties to exert greater efforts to ensure success of the Transition, national reconciliation and stability of the country in the longer term, in particular by refraining from any actions which may affect the cohesion of the Arusha Agreement process;

3. *Looks forward to* the Secretary-General's recommendations by 15 November 2005 on the role of the United Nations in supporting Burundi, including on the possible adjustment of ONUB's mandate and force strength, in accordance with progress made on the ground;

4. *Looks forward also to* the submission by the Secretary-General of his detailed proposal, as described in paragraphs 53 and 54 of his report, for the establishment of an international support mechanism during the post-transitional period in Burundi;

5. *Requests* the Secretary-General to continue to keep it informed in his reports on the situation in Burundi of actions taken in the fight against impunity;

6. *Welcomes* efforts undertaken by ONUB to implement the Secretary-General's zero-tolerance policy on sexual exploitation and abuse, and to ensure full compliance of its personnel with the United Nations code of conduct, *requests* the Secretary-General to continue to take all necessary action in this regard and to keep the Council informed, and *urges* troop-contributing countries to take appropriate preventive and disciplinary action to ensure that such acts are properly investigated and punished in cases involving their personnel;

7. *Decides* to remain actively seized of the matter.

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## Letter dated 26 May 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to my letter dated 11 April 2005 (S/2005/236), by which I forwarded to the Security Council, further to paragraph 1 (c) of article 13 ter of the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (the "International Tribunal"), the 22 nominations for ad litem judges of the Trial Chambers of that Tribunal which had been received from Member States of the United Nations within the period specified in paragraph 1 (b) of article 13 ter of the Statute as extended by the Security Council in the decision taken at its 5140th meeting.

I also have the honour to refer to Security Council resolution 1597 (2005) of 20 April 2005, by which the Security Council amended article 13 ter of the Tribunal's Statute to allow for the re-election of existing ad litem judges and decided to extend the deadline for nominations of ad litem judges under the amended provision of the Statute for a further 30 days from the date of the adoption of that resolution.

Pursuant to paragraph 1 (c) of article 13 ter of the Statute of the International Tribunal as so amended, I have the honour to forward to the Security Council the 27 nominations for ad litem judges of the Trial Chambers of the International Tribunal which have been received from Member States of the United Nations within the period specified in paragraph (b) of article 13 ter of the Tribunal's Statute, as extended by the Security Council in resolution 1597 (2005). The list of candidates,* in alphabetical order, is annexed to the present letter, together with their curricula vitae, which have been provided in connection with their nominations.

In this connection, I would like to draw the attention of the Security Council to paragraph 1 (c) of article 13 ter of the Statute, which provides in the relevant part as follows: "From the nominations received, the Security Council shall establish a list of not less than 54 candidates, taking due account of the adequate representation of the principal legal systems of the world and bearing in mind the importance of equitable geographical distribution".

I would note that the list of 27 candidates is short of the minimum number of 54 which is required by paragraph 1 (c) of article 13 ter of the Statute of the

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International Tribunal. I would accordingly suggest that the Security Council extend the deadline for nominations for a further 30 days from the date the Security Council takes a decision on the matter.

If the Security Council were so to extend the deadline, the Secretary-General would notify Member States of the United Nations and non-Member States maintaining permanent observer missions at United Nations Headquarters accordingly.

(*Signed*) Kofi A. **Annan**